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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/681,376	03/09/2004	Scott G. Huling	HULING1C	6409

1444 7590 03/17/2006
BROWDY AND NEIMARK, P.L.L.C.
624 NINTH STREET, NW
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WASHINGTON, DC 20001-5303

EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 03/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,376

Applicant(s)

HULING ET AL.

Examiner

Ivars C. Cintins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12-21, 23, 24 and 26-28 is/are pending in the application.
- 4a) Of the above claim(s) 14-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 13, 19-21, 23, 24 and 26-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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Initially, Applicant should note that the status identifiers for claims 14-18 are incorrect. Since these claims are directed to a non-elected invention, as a result of a restriction requirement, their proper status identifier is "withdrawn." Applicant is advised that all future responses must include the proper status identifier for these claims.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 12, 13, 19-21, 23 and 24 are again rejected under 35 U.S.C. 102(b) as being clearly anticipated by WO 99/58239.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knebel et al. (U.S. Patent No. 5,198,001; hereinafter "Knebel") in view of WO 99/58239. Knebel discloses removing gaseous organic contaminants from a gas stream by contacting the gas stream with a plurality of adsorbent beds (see col. 2, lines 23-26) to adsorb the organic contaminants onto the adsorbent, desorbing the organic contaminants from the adsorbent, and subsequently oxidizing these desorbed organic contaminants (col. 2, lines 30-34). Accordingly, this primary reference discloses the claimed invention with the exception of the recited iron amended sorbent, and the specific oxidant material employed. WO 99/58239 discloses removing organic

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contaminants from a fluid in the recited manner; and it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the adsorbent and oxidant treatments disclosed by WO 99/58239 in the process of Knebel, in order to streamline the adsorption and oxidation of organic contaminants in this modified primary reference process.

Applicant's arguments filed February 1, 2006 have been noted and carefully considered but are not deemed to be persuasive of patentability. With respect to claims 1-10, 12, 13, 19-21, 23 and 24, Applicant readily admits that water is a type of fluid, but then argues that there are many other types of fluids, including gases, that can be treated according to the process of the present invention; and therefore, "WO '239 cannot possibly anticipate the present invention except for when the fluid is water." It is pointed out, however, that it is axiomatic that the disclosure of a species in a reference is sufficient to prevent a later applicant from obtaining generic claims, unless the reference can be overcome. See, e.g., *In re Ruschetta*, 45 CCPA 968, 255 F.2d 687, 118 USPQ 101 (1958).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is 571-272-1155. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Duane Smith, can be reached at 571-272-1166.

The centralized facsimile number for the USPTO is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
March 15, 2006